



February 7, 2017

Richard Rose
U.S. Department of Justice, Tax Division

Sent via email

Cc: Erin Gallagher, Richard Humphrey, Richard Bolton, Luke Goodrich & Daniel Benson

Re: Offer to amend discovery requests in *Gaylor v. Lew*

Dear Mr. Rose,

I am sending this letter to memorialize our earlier conversation today about amending the discovery requests we served on you last week in Intervenor-Defendants' First Set of Interrogatories and Requests for Production to All Defendants and Notice of Rule 30(b)(6) Deposition of the Internal Revenue Service.

While we believe that these discovery requests were already reasonable and complied with Fed. R. Civ. P. 26, 30, 33, and 34, Intervenor-Defendants are willing to limit the scope in the following ways for Defendants' convenience and to facilitate Defendants' timely response if Defendants will agree to provide a witness or witnesses to testify at the 30(b)(6) deposition on each topic identified in the deposition notice:

Interrogatories No. 1, No. 2, and No. 7; Requests for Production No. 1, No. 2, and No. 7; and deposition matters 1 and 3 will be limited to current policies and the discussions, meetings, research, analysis, thought processes, and specific circumstances since January 1, 2009, that prompted, informed, or in any way influenced you to develop, consider, draft, or adopt those policies.

Request for Production No. 4 is amended as follows: "With regard to your answer to Interrogatories No. 4 and No. 5, please produce any and all documents that support your answer, including all documents relating to any exclusion or deduction of income pursuant to 26 U.S.C. § 107, 26 U.S.C. § 119(a)(2), or any other provision that allows taxpayers to exclude or deduct the value of employer-provided housing or housing allowances, claimed by Annie Laurie Gaylor, Dan Barker, Anne Nicol Gaylor, or any other employee of Freedom from Religion Foundation, Inc., in any tax year since January 1, 2009; this request includes:" (Subsections a-c remained unchanged.) This change clarifies that we are not concerned with Plaintiffs' return information that is



unrelated to excluding or deducting the value of employer-provided housing or housing allowances.

Please let me know at your earliest convenience if you agree to this.

Best,

/s/ Hannah C. Smith

Hannah C. Smith

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